W.P. No. 1069 of 2004 (M/S)

Hon. P.C. Pant, J.

Heard learned counsel for the petitioners.

By means of this petition, the petitioners have challenged the order dated 09.08.2004 passed by learned Civil Judge (J.D.) Rishikesh, whereby he has rejected the plaintiff/petitioners' application 118 C-2 in original suit no. 45 of 1994 for re-examination of the witness.

I have gone through the impugned order. The objection of the plaintiffs/petitioners is that while the statement was being recorded *'1979'* was mentioned in the statement of witness instead of ***'1989'***. However, the Presiding Officer of the trial court, who recorded the statement is the best judge of this fact. He, after hearing the other side, rejected the application of the petitioners by a detailed order mentioning the reasons for rejection. This court in its revisional jurisdiction under Article 227 of the Constitution of India, cannot decide such factual disputes.

Therefore, the petition is dismissed summarily with the observations that the learned trial court while disposing that suit and appreciating the evidence of the witness may read the same in the light of the objections made by the plaintiffs/petitioners in their application 118C-2.

Sd/-

Dt: 7.12.2004
HN